



ASSISTANT SECRETARY OF STATE
WASHINGTON, D.C. 20520

W.C. KENNEDY

4/10/78

November 8, 1977

Dear Professor Lande:

I refer to your letter of October 30, 1977 regarding your concern that President Carter's human rights policy is not being implemented by several agencies of the United States Government.

I can assure you that such is not the case. The two Soviet dissidents whom you mention in your letter had hijacked a Soviet airliner to Turkey and in the process killed a stewardess and wounded three other crew members. They were tried and convicted for these crimes and were later amnestied. They subsequently entered the United States and requested asylum in this country with the Immigration and Naturalization Service (INS). Because of the commission of those serious non-political crimes, the Department of State had been unable to recommend that asylum be granted. Asylum is inappropriate when there are serious reasons for believing that an asylum seeker has committed a serious non-political crime (e.g. hijacking) prior to entry into the country where refuge is being sought. While the Department of State had not recommended that they be returned to Soviet custody, the question of their deportability is still being considered by the INS.

In regard to your second point, we too share your concern that the United States not be seen only as a place of refuge from left wing repression but that we also give succor to political refugees from right wing governments as well. This policy is, for instance, being implemented in the case of Chilean refugees from Chile and Chilean;

Professor Carl H. Lande,
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Bolivian and Uruguayan refugees from Argentina. The Department of State has also recommended to the Immigration and Naturalization Service that political asylum be granted to a number of political refugees from other right wing governments.

Regarding the repatriation of those Haitians from the U.S. Naval Base in Guantanamo Bay, Cuba representatives of the Department of State thoroughly interviewed each Haitian regarding his/her background for leaving that country. As a result of such interviews, it was determined that they departed Haiti due to bleak economic conditions. If there was any possibility that any in this group would have been harassed or persecuted upon return to that country, such a persons would not have been returned. The Government of Haiti had given specific assurances that those Haitians could return to Haiti without fearing reprisals, harassment, or persecution and that that Government would provide money to ensure the return of these Haitians to their respective homes. Therefore, on September 5, ninety-seven of the one hundred and one Haitians were returned to Haiti. Four Haitians, whose cases have not been resolved, have remained at Guantanamo.

I hope that the above information will be helpful to you when discussing these two situations with your students.

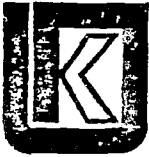
Sincerely,

Patricia M. Derian
Assistant Secretary for Human Rights
and Humanitarian Affairs

Clearances: HA/ORM -- Mr. Carlin

HA/ORM - Mr. Dawson

HA/ORM:LArthur:nd:11/8/77



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30. October, 1977

Ms. Patt Derian
Coordinator for Human Rights
The Department of State
Washington, D.C.

Dear Ms. Derian:

As a strong supporter of the President's human rights policy, I am disturbed by two recent press reports which suggest that this admirable policy is not being taken very seriously by several agencies of the government. The press reports are the following:

1. A report in Jack Anderson's column asserting that the Department of Justice is "quietly trying to deport two Soviet dissidents back to Russia, where they face almost certain execution."
2. An article in the Christian Science Monitor, Oct 17th, mentioning the forced repatriation to Haiti of 101 refugees, and alleging that the Immigration and Naturalization Service is far less willing to grant refuge to refugees from right-wing dictatorships than from communist dictatorships.

Kindly explain to me (and to my students) why these two agencies, supposedly under the President's control, appear to be insensitive to what I thought was one of his major policy commitments.

Yours sincerely,

Carl H. Lande

Carl H. Lande
Professor

CC: Senator Jackson
Senator Kennedy
Senator Dole
Atty General Bell
The President

Execution may face 2 Soviets

By JACK ANDERSON
and LES WHITTEN

WASHINGTON — The Justice Dept. is quietly trying to deport two Soviet dissidents back to Russia, where they face almost certain execution.

Lithuanian freedom fighter Pranas Brazinskas was tortured for years in Soviet prisons before he escaped and hijacked a plane to Turkey in October 1970. He and his son eventually made their way to the United States, which has no extradition treaty with the Soviet Union.

Yet the United States is apparently bowing to Soviet demands and may soon return the courageous father and son, even though a State Dept. official admits it is "quite possible" they will be killed.

Brazinskas' tale of suffering for his once-independent homeland is vividly described in a 50-page personal statement. He became a dissident on his 17th birthday in 1940, when a "motor truck filled with armed Soviet soldiers" stormed into his Lithuanian village and "drove out all the inhabitants from their homes to vote" for Soviet rule.

WITHIN A MONTH, he wrote in imperfect English, his life of terror and hiding began. "Through one devastating night," Brazinskas recalls, Soviet soldiers apprehended 35,000 Lithuanians, including women, children and the elderly, and herded them into concentration camps.

But Brazinskas escaped under the cover of darkness, firing his shotgun at the pursuing secret police agents. He lived in the woods for four years, fighting both Russians and Nazis, until he caught pneumonia and was arrested along with his pregnant wife.

chambers of Liublianka prison. "They struck me by their fists, rubber sticks, loose chair-legs," he writes. They also used their "special tool," a "flat long ruler to which hundreds of needles are attached, which by deeply piercing into the body causes unbelievable suffering and hemorrhage."

"The most horrible," Brazinskas recalls, "were those seven days of covered coffin, where I had to stand, and where it was impossible to lie down or sit. . . . My arms were broken and cuffed from behind to my spine."

Brazinskas was later exiled to Siberia. He worked 16 hours a day, subsisted on a daily diet of 300 grams of bread and slept with another prisoner on two wooden boards. In three years he was allowed only three baths.

HE ESCAPED during an uprising by the Siberian soldiers and found his wife and the daughter he had never seen. The Lithuanian resistance movement went underground during the 1950s. Brazinskas became a high official in the dissident network, led sabotage operations against a Soviet electrical plant and organized a labor strike. However, he was arrested again in 1963 and sent to Vilnius prison.

When the usual torture methods failed to force Brazinskas to divulge information about the underground, a technique called "knovejari" was applied. "Two 'body mechanics' suddenly caught my arms from behind and, by breaking them at the spine, they placed me into automatic chains."

They held his head under water and threatened to drown him; they thrust hot needles under his fingernails and burned the soles of his feet with electric current. "But I just repeated the same words of my destiny," Brazinskas writes. "I do not know! I do not know anything! Even in my sleep I repeated the same words."

13 December 76 CHRISTIAN SCIENCE MONITOR Wave of executions in Guatemala reported

London

The human rights organization Amnesty International said Sunday that more than 20,000 executions have taken place in Guatemala since 1966.

Amnesty said in a briefing paper that executions or disappearances occurred almost daily in the Central American republic, involving political dissidents or criminals being put to death by security forces or paramilitary groups.

"Although governmental authorities have always officially denied responsibility, individual members of government have acknowledged government involvement and justified the actions as a necessary response to left-wing and common criminal violence," Amnesty said.

OPINION AND COMMENTARY

America: an unfair haven

By Christopher Hanson

The United States decided quite quickly to turn almost all of the 101 refugees who had fled from there a couple of months ago. After the refugees' arrival in a leaky sailboat at the Guantanamo Naval Base in Cuba, their cases were reviewed and most were judged to have had economic rather than political motives for seeking to stay in the U.S. — though at least one of the refugees reportedly said they had left President Duvalier's authoritarian regime for political reasons.

At any rate, the U.S. denied sanctuary to 97 of them (four cases were still pending, early in October), as it has withheld asylum from virtually all of the 1,000 Haitians who have escaped to Florida over the past three years. According to government figures, 97 percent of those who survive the dangerous voyage are denied asylum after summary hearings and are returned to the Duvalier government.

American treatment of these Haitians is part of an overall pattern of discrimination. Government statistics for 1974-75 show that about 5 percent of asylum applicants from right-wing governments such as Iran, South Vietnam, Chile, and the Philippines were denied sanctuary. In striking contrast, around 95 percent of the applications from communist countries (except Yugoslavia) were approved. (Yugoslavia has traditionally been treated more as an ally than as a communist country by our government.) A State Department spokesman recently said that the pattern of asylum grants and denials has continued to the present.

Discrimination by the U.S. is even more obvious within the larger context of refugees abroad who seek asylum here. The immigration law allows an annual refugee admission of 17,400, but defines "refugee" narrowly to exclude nearly all exiles except those fleeing communism. In addition, special parole programs have been instituted for hundreds of thousands of communist-country refugees but for very few escapees from non-communist countries.

Political prisoners in Chile are a case in point. Eighteen months after the junta agreed to release its "detainees" if other countries would accept them, only 27 had been paroled into the U.S. During this period, the U.S. quickly admitted 145,000 Indo-Chinese refugees.

Meanwhile, 21,000 Chileans and foreign nationals had escaped into Peru and Argentina. Many of them were in desperate plight. Ignoring United Nations appeals, the U.S. Government did not take in a single one. The Carter administration recently agreed to admit 15,000 Indo-Chinese refugees suffering in conditions similar to those of the Chilean exiles.

It has long been the stated American policy to give equal consideration to all who seek asylum and can demonstrate a "well-founded" fear that they would face political persecution in their native country. But American officials add: "Communist-country applicants are more qualified. Their governments persecute everyone who has tried to escape, while other dictatorships do not." However, many of these offi-

cials admit unofficially that it is really the mere uncertainty of the fate of those who are returned to mainland China, Poland, or Czechoslovakia which justifies not returning them. The fate of Haitian or Philippine returnees is also uncertain, yet many of them are sent home.

Asylum bureaucrats claim that cold war bias in the immigration law prevents them from treating refugees abroad evenhandedly. In fact, the parole provision gives the Attorney General power to admit aliens who are otherwise excludable. This power could be used to compensate for bias in the law — but rarely is.

The real American attitude toward political asylum is less a cohesive policy, than a response to pressures exerted by the Immigration and Naturalization Service (INS), the State Department, and the Congress. Congressional views on immigration tend to reflect a widespread sentiment for tightly restricted immigration and preoccupation with security risks. East European ethnic organizations are the only pro-asylum lobby groups which have much clout on Capitol Hill. They provide sponsors for communist-country refugees and local resistance to their admission; whereas refugees from rightist regimes are not effectively represented by naturalized ethnic groups.

INS, zealously embracing the goal of restricted immigration, fights against all large-scale refugee admissions. A State Department

official conceded that geopolitics — the need to maintain strong bilateral relationships as a staunch anticommunist image — was the reason for denying asylum to Iranians, Cubans, and before May, 1975, South Vietnamese while continuing to admit those fleeing communism. So, throughout the asylum bureaucracy, political factors detract from humanitarianism.

If American political asylum practice become impartial and humanitarian, these are some steps to be taken:

- Cold war bias should be eliminated from the immigration law. "Refugee" should be redefined to encompass aliens who flee types of persecution, not just the communist variety.

- One independent asylum and refugee agency — headed by a presidential appointee — whom the parole authority should be transferred — must be established with a humanitarian mission and enough power to fight against the political forces which now shape U.S. asylum policy.

- Forceful leadership from President Carter is vital for significant change. A Justice Department spokesman reports that a debate on asylum policy is under way within the administration. Let us hope that Mr. Carter will announce plans to institute a just program for political refugees.

Mr. Hanson did the research for this article under a fellowship from the Carnegie Endowment.